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Attorneys for GP LLC

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)	Case No. 18-34244-pcm11
Christian S. Radabaugh, Sr.,)	MOTION FOR ORDER AUTHORIZING
Debtor-in-Possession.)	RULE 2004 EXAMINATION OF ROBERT
)	LUNDQUIST
)	
)	

CERTIFICATION UNDER LBR 7007-1

The undersigned hereby certifies that he conferred with Nicholas J. Henderson, counsel for Debtor, who does not oppose this Motion.

MOTION

GP LLC ("GP") moves the Court, pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an order authorizing the examination of Robert Lundquist and the subpoenaing of documents concerning Mr. Lundquist's business relationships with the Debtor, including, without limitation, some type of a "cattle partnership" the Debtor testified to during his Section 341(a) meeting that existed and that was not disclosed in his original schedules or Statement of Financial Affairs (Dkt. No. 31), but was added in his amended Statement of Financial Affairs (Dkt. No. 100), as well as relating in any way to any and all other transactions, purchases, agreements, contracts, and other matters Mr. Lundquist now has or has had

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1 the Debtor, or any entity in which the Debtor has or had an interest, including, without
2 limitation, any business transactions, partnerships, or other combinations, involving
3 cattle or other livestock.

4 “Rule 2004 permits a party in interest ... to examine ‘any entity’ regarding any
5 ‘acts, conduct, or property’ or ‘liabilities and financial condition’ of the debtor or
6 regarding ‘any matter which may affect the administration of the debtor's estate.’” *In re*
7 *Consolidated Meridian Funds*, 2013 WL 1501636, *9 (Bankr WD Wash 2013) (quoting
8 Rule 2004). “The purpose of a Rule 2004 examination is to assist a party in interest in
9 determining the nature and extent of the bankruptcy estate, revealing assets, examining
10 transactions and assessing whether wrongdoing has occurred.” *In re Recoton Corp.*,
11 307 BR 751, 755 (Bankr SDNY 2004) (citations omitted). Consistent with its purpose,
12 “[t]he scope of Rule 2004 examination is very broad, broader even than discovery under
13 the Federal Rules of Civil Procedure,” and “[a]ny third party who has a relationship with
14 a debtor may be made subject to a Rule 2004 investigation.” *Id.*; see also, *In re*
15 *Financial Corp. of America*, 119 BR 728, 733 (Bankr CD Cal 1990) (“The scope of Rule
16 2004 is broad, and an examination pursuant to this rule may extend to third parties who
17 have had dealings with the debtor.”) (citations omitted).

18 “By its text, Rule 2004 does not require notice or a hearing before it can be
19 utilized by a party in interest.” *In re Consolidated Meridian Funds*, 2013 WL 1501636 at
20 *9 (citations omitted). As a result, “Rule 2004 orders are routinely issued upon the filing
21 of an *ex parte* motion by the [party in interest].” *Id.* “Rule 2004(c) provides that the
22 production of documents may be compelled as provided in Rule 9016, which
23 incorporates the subpoena power of Rule 45 [of the Federal Rules of Civil Procedure].”
24 *Id.* “Under Rule 2004, therefore, the movant may obtain an *ex parte* order of the court
25 which authorizes the movant's attorney to issue a subpoena under Rule 45.” *Id.*

26 WHEREFORE, for the reasons set forth above, GP requests the Court authorize

**Page 2 of 3 - MOTION FOR ORDER AUTHORIZING RULE 2004 EXAMINATION OF
ROBERT LUNDQUIST**

1 GP to take the Rule 2004 examination of Robert Lundquist and obtain documents as
2 permitted by Rule 2004 of the Bankruptcy Rules, and that the Court enter the order in
3 form attached hereto as Exhibit 1.

4 SUSSMAN SHANK LLP

5 /s/ Howard M. Levine
6 By _____
7 Howard M. Levine, OSB No. 800730
8 Attorneys for GP LLC

9 *24987-001\MOTION FOR ORDER AUTHORIZING RULE 2004 EXAMINATION OF ROBERT LUNDQUIST (03091094);1
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ROBERT LUNDQUIST**

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IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re	}	Case No. 18-34244-pcm11
Christian S. Radabaugh, Sr.,		ORDER APPROVING MOTION FOR
		ORDER AUTHORIZING RULE 2004
Debtor-in-Possession.		EXAMINATION OF ROBERT
		LUNDQUIST

THIS MATTER having come before the Court on the *MOTION FOR ORDER AUTHORIZING RULE 2004 EXAMINATION OF ROBERT LUNDQUIST* and the Court being fully advised, it is hereby

ORDERED:

1. Robert Lundquist shall appear for an examination under Bankruptcy Rule 2004 at the law office of Francis Hansen & Martin LLP, 1148 N.W. Hill Street, Bend, Oregon 97703 to testify under oath regarding the matters permitted under FRBP 2004(b), including, without limitation, matters relating to a cattle partnership between Mr. Lundquist and the Debtor and any other business or financial dealings Mr. Lundquist has or had with the Debtor.

2. The Rule 2004 Examination shall take place at a date and time selected by GP LLC in coordination with the Debtor's attorney, Nicholas Henderson and Mr. Lundquist. Mr. Lundquist shall cooperate in agreeing to a date and time for the examination.

3. Robert Lundquist shall produce at the time of the examination all documents (as defined in Federal Rule of Civil Procedure 34(a)(1)(A)) relating in any way to any and all transactions, purchases, agreements, contracts, and other matters he now has or has had with the Debtor, or any entity in which the Debtor has or had an interest, including, without limitation, any business transactions, partnerships, or other combinations, involving cattle or other livestock.

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CERTIFICATION OF COMPLIANCE WITH LBR 9021-1(a)(2)(A)

I certify that I have complied with the requirements of LBR 9021-1(a)(2)(A) in that proposed Rule 2004 Order is exempt under LR 9021-1(b)(2).

PRESENTED BY:

SUSSMAN SHANK LLP

/s/ Howard M. Levine

Howard M. Levine, OSB No. 800730
Attorneys for GP LLC

c: ECF Participants

*24987-001\ORDER RE 2004 EXAM (02661996X7AC43) (03091152);1

1 CERTIFICATE OF SERVICE

2 I, Janine E. Hume declare as follows:

3 I am employed in the County of Multnomah, state of Oregon; I am over the age of
4 eighteen years and am not a party to this action; my business address is 1000 SW
5 Broadway, Suite 1400, Portland, Oregon 97205-3089, in said county and state.

6 I certify that on February 7, 2019, I served, via first class mail, a full and correct
7 copy of the foregoing **MOTION FOR ORDER AUTHORIZING RULE 2004**
8 **EXAMINATION OF ROBERT LUNDQUIST**, to the parties of record, addressed as
9 follows:

10 ODR Bkcy
11 955 Center St NE
12 Salem, OR 97301-2555

13 I also certify that on February 7, 2019, I served the above-referenced
14 document(s) on all ECF participants as indicated on the Court's Cm/ECF system.

15 I swear under penalty of perjury that the foregoing is true and correct to the best
16 of my knowledge, information, and belief.

17 Dated: February 7, 2019.

18 */s/ Janine E. Hume*

19 _____
20 Janine E. Hume, Legal Assistant
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